

# **TENNESSEE ALCOHOLIC BEVERAGE COMMISSION**

**Minutes  
September 15, 2005  
9:30 a.m.**

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The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, September 15, 2005 in Nashville, Tennessee at 9:30 a.m. Commissioners John Jones and Harlan Mathews were present. Although Commissioner Cynthia Bond was not in attendance, a quorum was present and the meeting was held. Executive Director Danielle Elks, Assistant Director Carolyn Smith, CLEO Mark Hutchens and ASAC Andy Woodall from the staff were present.

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**1. The Minutes for August 11, 2005 Commission Meeting were approved.**

**2. RETAIL PACKAGE STORES:**

**1. RIVERSIDE LIQUORS  
CELINA, TENNESSEE (CLAY COUNTY)**

**Licensee/Seller: James and Mary Cunningham  
Applicant/Buyer: Mary Cunningham**

Before the Commission is a request for a transfer of ownership of the retail store located at 1019 East Lake Avenue in Celina, Tennessee. Mr. and Mrs. Cunningham have been licensed at this location since August, 1996. Mr. Cunningham passed away on December 4, 2004. Pursuant to Mr. Cunningham's will, all assets of his estate have been bequeath to Mrs. Cunningham. Mrs. Cunningham has made a request to transfer ownership of the business to her as a sole proprietorship. All documentation has been submitted with the exception of the following:

a. Sales Tax Number.

**Discussion/Action Taken:**

Director Elks reviewed the application for the Commissioners and recommended approval upon submission of the Tennessee Sales Tax Number. Commissioner Mathews made a motion to approve upon submission of the pending document. Chairman Jones seconded the motion and it passed with 2 ayes.

**2. PLAZA PACKAGE  
JOHNSON CITY, TENNESSEE (WASHINGTON COUNTY)**

**Licensee/Seller:** Plaza Package Store, Inc.  
**Stockholders:** Hurshel Bowers  
**Applicant/Buyer:** Libations, LLC  
**Members:** Peter L. Nickels and Peter J. Nickels

Before the Commission is a request for a transfer of ownership of the retail store located at 4471 North Roan Street, Unit 2 in Johnson City, Tennessee. Peter L. Nickels and Peter J. Nickels desires to purchase this business from Plaza Package Store, Inc., and if approved, operate the business as a corporation, Libations, LLC. The purchase price for the business is approximately \$329,000: inventory—approximately \$240,000, and fixtures \$89,000. Under separate agreement, the applicant is purchasing the property for \$603,882.90. Financing for the business is passed upon a \$200,000 joint line of credit with the State of Franklin Bank, and existing personal funds. (Financing for the property is based upon a promissory note with the seller.) Peter L. Nickels intends to invest \$225,000 and hold 75% of the stock; Peter J. Nickels intends to invest \$75,000 and hold 25% of the stock. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy Permit;
- b. Federal Tax Stamp should be in LLC's name.

**Discussion/Action Taken:**

Director Elks reviewed the application for the Commissioners and recommended approval upon submission of the Use and Occupancy Permit. Chairman Jones made a motion to approve upon submission of the pending document. Commissioner Mathews seconded the motion and it passed with 2 ayes.

**3. A-Z WINES AND SPIRITS  
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

**Licensee/Seller:** David Fry Enterprises, Inc.  
**Stockholders:** David Fry  
**Applicant/Buyer:** MM and A Enterprises, Inc.  
**Stockholders:** Michael Mangrum, Marsha Mangrum and Amber Williams

Before the Commission is a request for a transfer of ownership of the retail store located at 3965 Nolensville Road in Nashville, Tennessee. If approved, Michael and Marsha Mangrum and Amber Williams intend to purchase the business

for \$110,000 plus existing inventory, and operate the business as the corporation, MM and A Enterprises, Inc. Michael Mangrum intends to invest \$110,000, Marsha Mangrum and Amber Williams intend to invest \$50,000 each. Financing is based upon a \$1,000,000 inheritance for the family. Stock ownership would be the following: Michael Mangrum (President), 50%; Marsha Mangrum (Vice President) and Amber Williams (Secretary/Treasurer), 25% each. All documentation has been submitted.

**Discussion/Action Taken:**

Michael Mangrum and Jim Duncan, attorney, were present at the meeting. Director Elks reviewed the application for the Commissioners and recommended approval. Commissioner Mathews made a motion to approve. Chairman Jones seconded the motion and it passed with 2 ayes.

**4. MIDTOWN WINE AND SPIRITS  
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

<b>Licensee/Seller:</b>	<b>Cavu, Inc.</b>
<b>Stockholders:</b>	<b>John B. Outlan</b>
<b>Applicant/Buyer:</b>	<b>Foster, Inc.</b>
<b>Stockholders:</b>	<b>Justin Foster</b>

Before the Commission is a request for a transfer of ownership for the store located 2541 Poplar Avenue, in Memphis, Tennessee. Mr. Justin Foster desires to purchase the business, and if approved, operate the business as a corporation with himself as the sole stockholder and President, and Ashley Smith as the corporation's Secretary. Mr. Foster intends to initially invest \$150,000: the purchase price for the business is \$100,000. Financing is based upon a promissory note between the applicant and Calvin Foster. All documentation has been submitted with the exception of the following:

- a. TABC Inspection.

**Discussion/Action Taken:**

Mr. Justin Foster was present at the meeting. Director Elks reviewed the application for the Commissioners and recommended approval upon submission of the TABC Inspection. Chairman Jones made a motion to approve. Commissioner Mathews seconded the motion and it passed with 2 ayes.

**5. CORNER WINE AND SPIRITS  
FRANKLIN, TENNESSEE (WILLIAMSON COUNTY)**

**Applicant: Elizabeth B. Ward**

Before the Commission is a request for a new package store to be located at 1110-A Hillsboro Road, Suite 120 in Franklin, Tennessee. If approved, Ms. Ward will operate the business as a sole proprietorship. Ms. Ward intends to initially invest \$300,000 in the business, all of which is based upon two loans from AmSouth Bank in the amounts of approximately \$247,000 and \$53,000. It should be noted that her husband, Colin Ward, is a stockholder in the corporate licensee for Del Rio Wine and Spirits—also in Franklin, Tennessee. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy Permit;
- b. TABC Inspection; and
- c. Acknowledgement of the TABC Rules and Regulations.

**Discussion/Action Taken:**

Mrs. Elizabeth Ward was present at the meeting. Director Elks reviewed the application for the Commissioners and recommended approval upon submission of the TABC Inspection and Acknowledgement of the Rules and Regulations. Chairman Jones made a motion to approve upon submission of the TABC Inspection and Acknowledgement of the Rules and Regulations. Commissioner Mathews seconded the motion and it passed with 2 ayes.

**6. ALCOA HIGHWAYS LIQUORS  
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

**Licensee/Seller: Stephen Davis**  
**Applicant/Buyer: Alcoa Highway Liquors, Inc.**  
**Stockholder: Andrea Davis**

Before the Commission is a request for a transfer of ownership of the package store located at 2913 Alcoa Highway in Knoxville, Tennessee. Mr. Stephen Davis was the sole proprietor of this business since August, 1991. In October, 2004, Mr. Davis passed away. His wife, Andrea Davis, is requesting that the ownership of the store be transferred to her, and the business be operated as a corporation with herself as the sole stockholder. All documentation has been submitted with the exception of the following:

- a. Will or other conveyance of assets to Mrs. Davis; and
- b. TABC Inspection

**Discussion/Action Taken:**

Director Elks reviewed the application for the Commissioners and recommended approval. She stated that the staff has received the Will and the TABC Inspection. Chairman Jones made a motion to approve. Commissioner Mathews seconded the motion and it passed with 2 ayes.

**7. WEST TOWN WINE AND SPIRITS  
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

**Applicant:** Curry Enterprises, LLC  
**Member:** John A. Curry

Before the Commission is a request for a new package store to be located at 7319 Kingston Pike, in Knoxville, Tennessee. If approved, Mr. John Curry will operate the business as a limited liability company, with himself as the sole member. His wife, Jacqueline Curry, will serve as the company's Secretary. Mr. Curry intends to initially invest \$150,000: financing is based upon a \$30,000 line of credit with AmSouth Bank, and remaining monies from personal funds. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy Permit;
- b. TABC Inspection;
- c. Acknowledgment of the Rules and Regulations; and
- d. Questionnaire for Jacqueline Curry.

**Discussion/Action Taken:**

Director Elks reviewed the application for the Commissioners and recommended approval upon submission of the TABC Inspection and the Acknowledgment of the Rules and Regulations. Commissioner Mathews made a motion to approve upon submission of the pending documentation. Chairman Jones seconded the motion and it passed with 2 ayes.

**8. GRAPEVINE WINE  
BRENTWOOD, TENNESSEE (WILLIAMSON COUNTY)**

**Licensee/Seller:** John A. Lee  
**Applicant/Buyer:** Grapevine Wine and Spirits, LLC  
**Members:** John A. Lee, Jr. and Gary Sasser

Before the Commission is a request for a transfer of ownership of retail package store located at 8109 Moores Lane, in Brentwood, Tennessee. Mr. John Lee desires to transfer part of his ownership interest in the business to Mr. Gary Sasser, and operate the business as a limited liability company. Mr. John Fields would serve as the company's Secretary, and Mr. Lee and Mr. Sasser would each own 50% of the stock. At the time of the creation of the agenda, it is unknown how much Mr. Sasser is investing in the business. All documentation has been submitted with the exception of the following:

- a. New sales tax number;
- b. TABC Inspection;
- c. Acknowledgement of the Rules and Regulations;
- d. Verification that John A. Lee, John A. Lee, Jr. and John E. Lee is the same person;
- e. Background Information Sheets completed for Mr. Lee and Mr. Sasser;
- f. Questionnaires for Mr. Lee, Mr. Sasser, and Mr. Fields;
- g. Bank Check for Mr. Sasser;
- h. Bill of Sale; and
- i. Updated Use and Occupancy.

**Discussion/Action Taken:**

Director Elks reviewed the application for the Commissioners. She requested the Commission continue this matter to the October meeting because so many documents remained outstanding to complete the application. Chairman Jones requests that the applicants be informed that the staff would appreciate their response to the needed documents. Chairman Jones made a motion to continue this matter to the October meeting and Commissioner Mathews seconded the motion. The motion passed with 2 ayes.

**9. NORTHRIDGE PACKAGE STORE  
JOHNSON CITY, TENNESSEE (WASHINGTON COUNTY)**

**Licensee: Delilah Grunlob**

Ms. Delilah Grunlob is requesting a transfer of location for her package store currently located at 3122 Bristol Highway in Johnson City, Tennessee. She wishes to transfer location to 2902 N. Roan Street in Johnson City, Tennessee because she has the opportunity to purchase the building, and cease renting. All documentation has been submitted with the exception of the following:

- a. Application showing the new address; and
- b. Use and Occupancy permit.

**Discussion/Action Taken:**

Director Elks reviewed the application for the Commissioners and recommended approval upon submission of the Use and Occupancy Permit. Chairman Jones made a motion to approve upon submission of the Use and Occupancy Permit. Commissioner Mathews seconded the motion and it passed with 2 ayes.

**10. HSC WINE AND LIQUOR  
BRENTWOOD, TENNESSEE (WILLIAMSON COUNTY)**

**Applicant: HSC, LLC**

**Members: Robert Cirulli, William Huffman, and James Maddox**

Before the Commission is a request for a new package store to be located at 98 Seaboard Lane, in Brentwood, Tennessee. If approved, Mr. Robert Cirulli, William Huffman and James Maddox intend to operate this business as a limited liability company. Costco Wholesale Corporation owns the property where this business will be located. Costco Wholesale Corporation leases the property to Santa Cruz Realty, Inc., which is owned by Ron Herrmann. Santa Cruz Realty subleases the property to the applicant. Mr. Herrmann provided the financing to licensee, Nancy Page for the store, Wolfchase Wine and Spirits @ Costco, and to Dr. Roy Page for the store, Southwind Wine and Spirits @ Costco. Both stores are located in Memphis, Tennessee. Extensive discussions have occurred between applicant, their attorney Will Cheek, and TABC staff. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy Permit;
- b. TABC Inspection;
- c. Acknowledgement of the Rules and Regulations;
- d. Percentage of Ownership;
- e. Bank credit checks for Mr. Cirulli, Mr. Huffman, and Mr. Maddox;
- f. Affidavits from Mr. Cirulli, Mr. Huffman, and Mr. Maddox indicating that Mr. Herrmann, Mr. Scott Beckendorf, and/or any of their affiliate companies, as well as Costco, will have no direct or indirect interest in the ownership and/or operation of this store; and
- g. Affidavit from Mr. Herrmann acknowledging neither he nor any of his affiliate companies will have a direct or indirect interest in the ownership and/or the operation of this store.

**Discussion/Action Taken:**

Dr. William Huffman, Robert Circulli and William Cheek, III, attorney, were present at the meeting. Director Elks reviewed the application for the Commissioners. She stated that HSC Wine and Liquor is located next door to Costco Warehouse. Costco Warehouse owns the property at this location and Costco is leasing the property to an entity called Santa Cruz Realty owned by Mr. Ron Herrman. Mr. Herrman is subleasing the property to the applicant for the retail store. Director Elks stated that because of the history of retail stores located at Costco locations, an extensive investigation was conducted. Ms. Elks reviewed the history for the Commission. Dr. Roy C. Page, II applied for retail stores in the Memphis locations at two Costco locations. Mr. Herrman supplied the financing for these stores and was related to Mrs. Nancy Page. At that time the Commission set a show-cause hearing for this matter to determine whether Costco had an interest in these stores. The common denominator between the current pending application and the Memphis stores is Mr. Herrman. Because of this concurrent investigation pending for the Memphis stores, Mr. Herrman and the members of his corporation are submitting affidavits to set forth specifically what Mr. Herrman's role can be for this store. It has been structured and limited so that he is solely only the sublessor for this business. He cannot provide any services such as assistance in ordering, hiring, stocking and matters of that nature. Chairman Jones asked Director Elks if the licensees circumstances in Memphis have raised the visibility of this agency to being conscious that there is the potential for some mingling of management between Costco and the retail package store. She stated that the issue is whether an entity that is not qualified for a license in Tennessee, i.e., an out of state resident or entity, actually has an interest either directly or indirectly in a Tennessee retail store. This issue is under investigation in Memphis. Director Elks recommended approval upon submission of pending documentation. Commissioner Mathews made a motion to approve. Chairman Jones seconded the motion and it passed with 2 ayes.

**3. LIQUOR-BY-THE-DRINK: PRIVATE CLUBS**

**1. THE VILLAGE AT GERMANTOWN  
GERMANTOWN, TN (SHELBY COUNTY)**

The Village at Germantown ("The Village") is run by a non-profit corporation and includes senior housing, congregate elderly facilities, nursing homes, assisted living facilities, dementia facilities, continuing care retirement communities and related health care and housing facilities designed to meet the housing, health and financial security needs of the elderly. The Village has applied for a private club liquor-by-the-drink license so that it can sell alcoholic beverages



to its members and guests for consumption on the club's premises. There are approximately 200 dues paying members; however, they do not yet live at The Village. Members are expected to move in on October 15, 2005. All documentation has been submitted with the exception of the following:

- A. Financial statements;
- B. Minutes;
- C. TABC Inspection;
- D. Acknowledgment of Rules and Regulations;
- E. Private Club Questionnaire; and
- F. Use and Occupancy Permit

**Discussion/Action Taken:**

Mr. G. T. McPherson and Mr. McWilliams were present at the meeting. Assistant Director Carolyn Smith reviewed the application for the Commissioners. She stated the facility includes senior housing, nursing homes, assisted living facilities and other services that will be available to the members who will reside at the facility. At this time, the members have not yet moved into the facility, but they are expected to do so in mid-October after the final use and occupancy permit is issued. Mr. McPherson stated the alcoholic beverages will be confined to the restaurant and will only be served to the residents and the guests of the residents who are visiting. Assistant Director Smith stated that the staff would like additional documentation on the specific area in which alcohol will be served and consumed. She stated that the rules require that the by-laws and the rules of the Association provide that there is a one week waiting period between an individual applying to be a member and actually becoming a member. Mr. McPherson indicated that such a rule would be added to the club rules. Ms. Smith also stated that the rules require that the Association have been in existence and operating for at least two (2) years prior to the application and that there have been annual meetings of the membership with a quorum present during that period of time. Mr. McWilliams stated that members have been present at some meetings regarding The Village although there may not be recorded minutes or other documentation memorializing the meetings. Ms. Smith indicated that the issue of compliance with the annual meetings requirement would be a decision for the Commission to make. Finally, Ms. Smith stated that all documentation had been submitted with the exception of the final Use and Occupancy Permit, clarification of the area in which alcoholic beverages will be served and consumed, and verification that there will be a one-week waiting period between when an individual submits a membership application and when that individual becomes a member.

Commissioner Mathews made a motion to approve upon submission of the Use and Occupancy Permit. Chairman Jones seconded the motion and it passed with 2 ayes.

**4. CONTESTED CASES**

**A. BEN ALEXANDER**

Mr. Alexander is appealing the decision of TABC staff denying his application for a server permit. On his application for a server permit, Mr. Alexander disclosed a 1998 conviction for sale of a schedule 2 controlled substance. T.C.A. §57-3-704 prohibits the issuance of a server permit to anyone who has been convicted of any crime relating to the sale of schedule 2 controlled substances within the previous eight (8) years. Because Mr. Alexander's conviction was in 1998 (more than four years ago), Senate Bill 1242 could potentially apply to him if it is passed by the General Assembly during the next legislative session.

**Discussion/Action Taken:**

Assistant Director Carolyn Smith reviewed the application for the Commissioners. She stated that the staff denied the application because he disclosed a conviction in October 1998 for the sale of a Schedule 2 controlled substance. She stated that Mr. Alexander may be one of those that might benefit if Legislation that was pending this past session was ultimately passed. She recommended, based on the action of the Commission at the last meeting, that Mr. Alexander's hearing be continued until action is taken on SB 1242 during the next Legislative Session. Commissioner Mathews made a motion to continue until action is taken on SB 1242 during the next session of the Tennessee General Assembly. Chairman Jones seconded the motion and it passed with 2 ayes.

**5. WINERY**

**6. SPECIAL OCCASION LICENSES**

**7. CONSUMER EDUCATION SEMINAR LICENSES**

**8. PERSONNEL**

**9. BUDGET**

**10. CONSENT ORDERS**

**11. PENDING MATTERS LIST**

**12. MISCELLANEOUS**

**13. DATE OF NEXT MEETING – October 19, 2005 at 9:30 a.m.**

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There being no further business the meeting was adjourned.

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Shari Danielle Elks  
Executive Director

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John A. Jones  
Chairman